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Attorneys for Plaintiff
McAFEE, INC., a Delaware corporation f/k/a
Network Associates, Inc., d/b/a Network Associates,
Inc.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

McAFEE, INC., a Delaware corporation
f/k/a Network Associates, Inc., d/b/a
Network Associates, Inc.,

Plaintiff,

v.

TERRY W. DAVIS, an individual; and
DOES 1 through 10, inclusive,

Defendants.

Case No. C 07-03529 JW

**NOTICE OF PLAINTIFF McAfee, INC.'S
MOTION TO DISMISS COUNTER CLAIM**

[F.R.C.P. 12(B)(6)]

Hearing:

Date: September 24, 2007
Time: 9:00 a.m.
Judge: Honorable James Ware

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on September 24, 2007 at 9:00 a.m. or as soon as this matter may be heard in Courtroom 8 of the above-entitled Court, located at 280 South First Street, San Jose, California 95113, Plaintiff McAfee, Inc. ("McAfee") will move for an Order under Rule 12(b)(6) of the Federal Rules of Civil Procedure to Dismiss the Counter Claim for Breach of Contract of Defendant Terry W. Davis ("Davis"). The Motion is brought on the grounds that Davis' purported Counter Claim is time-barred under California Code of Civil Procedure Section 337's four-year statute of limitation.

The Motion will be based on this Notice, the Memorandum of Points and

1 Authorities submitted herewith, all papers and pleadings on file in this action, the oral argument
2 of counsel and such other evidence as may be presented at or before the hearing of the Motion.

3 Dated: August 14, 2007

STEIN & LUBIN LLP

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5 By: /s/Isabelle Hurtubise

Isabelle Hurtubise

Attorneys for Plaintiff

McAFEE, INC., a Delaware corporation f/k/a

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